



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MACHAKOS**

**ELC. CASE NO. 158 OF 2018 (O.S)**

**JOHN SIMON NDOLO MULI.....PLAINTIFF**

**VERSUS**

**MATUNGE PERESIET LILA *alias* MATUNKE**

**OLE SAPUKO *alias* MATUNKE OLOE SAPUKO PENY.....1<sup>ST</sup> DEFENDANT**

**PETER NZUKI NDETL.....2<sup>ND</sup> DEFENDANT**

**JOSEPH NZAU NDETL.....3<sup>RD</sup> DEFENDANT**

**BEATRICE K. NDOLO.....4<sup>TH</sup> DEFENDANT**

**RULING**

1. In the Notice of Motion dated 13<sup>th</sup> February, 2019, the 1<sup>st</sup> Defendant has prayed for an order transferring this matter to the Environment and Land Court in Kajiado for hearing and determination.
2. The Application is premised on the grounds that the suit property is in Kajiado County; that there are other three matters involving the same subject matter and parties in the ELC, Kajiado and that the other three matters are ELC Case Nos. 168 of 2017, 186 of 2017, 4 of 2018 and 5 of 2018.
3. The 1<sup>st</sup> Defendant deponed that transferring the matter to Kajiado will avoid duplicity and the court issuing conflicting findings; that there is need to consolidate all the four matters and that transferring the matter will promote harmony and good jurisprudence.
4. The advocate for the Plaintiff and the Defendants filed submissions which I have considered. This is one of those Applications that should not have been argued by the parties in the first place. Indeed, it is these kind of Applications that take up the limited judicial time that should be utilized in handling serious disputes between parties.
5. It is obvious that the Environment and Land Court is one court, and depending on the *locus quo* of the suit land, the court can and should transfer the file to the station in whose area the land is situated. That is the law and the practice.
6. Land Reference number 10029/31, the suit land, is indicated to be in Kitengela. Indeed, the said land is known as “*Kitengela Farm*”. Considering that Kitengela is in Kajiado County, this suit should be transferred to the Environment and Land Court, Kajiado. The issue of whether this matter should be consolidated with ELC. Nos. 168 of 2017, 186 of 2017, 4 of 2018 and 5 of 2018 will be considered by the trial court.
7. In the circumstances, I allow the Application dated 13<sup>th</sup> February, 2019. This file is hereby transferred to the ELC, Kajiado for hearing and determination.

**DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 15<sup>TH</sup> DAY OF NOVEMBER, 2019.**

**O.A. ANGOTE**

**JUDGE**